Appendix C: Long-Term Care Issues Identified by State Ombudsmen - 1998

About this chart: The issues which states addressed in their reports are grouped by six general categories: **Access to Facilities, Enforcement, Staffing, Patient Care, Residents' Rights and Ombudsman Program Issues**. Subcategories of these general issues, and in some cases, subgroups of the subcategories, are listed in the left column; the states which identified the particular issue are listed in the second column, and descriptions of the problem, barriers to resolution and any action(s) the state has taken or recommendation to resolve the issue are in the long third column. There is much interrelationship between the various issues. For example, **staffing** is directly related to **resident care**; **transfer/discharge** is both an access and a **residents' rights** issue. For this reason, a state's discussion of an issue under one heading issue may be partially repeated under another issue.

General Issue: Access to Facilities and Services		
Transfer and Discharge		
Assisted Living, Board & Care, Similar	**IL**	Lack of involuntary discharge protections; **Action**: Ombudsman program participating in discussions on language for involuntary discharge protection legislation
	MS	See "access to services, special needs" below.
	NE	Assisted living facility regulation, discharge, retention, retention of Medicaid resident
	OH	Residential Care Facilities (RCFs) are not certified to receive Medicaid. Residents may be required to move to a nursing home due to exhaustion of person funds.
Medicaid	**GA**	Some facilities fail to notify residents of their right to apply for Medicaid when their Medicare benefits are exhausted. Because the Medicaid reimbursement rate is lower than either the Medicare or private-pay rate, facilities have little incentive to retain Medicaid-eligible residents over those whose care will be reimbursed by Medicare, or those who can pay through private insurance or personal resources.
	IN	Many facilities do not make timely Medicaid applications or provide adequate assistance in accessing the Medicaid system, resulting in transfer/discharge for non-payment. Facility staff lack knowledge about the Medicaid system. Residents, family members, and legal representatives have no understanding of the system. **Actions to resolve**: presentations were made to adult protective services investigators regarding the danger to residents who are evicted or threatened with eviction due to a legal representative's failure to provide the Medicaid office with information necessary for processing an application. One recommendation is to develop easy-to-understand materials on Medicaid, spousal impoverishment and the application process for distribution to consumers through the ombudsman program, other advocacy groups, social service agencies, doctors' offices, and nursing facilities.
	NE	Retention of Medicaid-eligible residents in assisted living facilities
	TN	Involuntary transfers and discharges, many of which are related to denied Medicaid, are among the most common problems faced by nursing home residents. Administrators do not want residents who have not been approved for Medicaid payment. **Actions to resolve:** In one situation a restraining order was obtained in Federal Court against the Department of Health (Licensure) prohibiting the allowance of the discharge of residents in facilities with Medical Assistance pending

Emergency Closures	**GA**	When personal care home residents are relocated from their residences due to neglect or abuse, regulatory actions, or a provider emergency, responsibility falls on a county agency which has no resources to assist in emergency, temporary placement of residents. Consequently, residents are sometimes relocated to situations that are undesirable or are not the most appropriate environment. Frequently residents are forced to leave their communities due to the lack of resources.
	MI	Residents' interests are not served by months and years of weak, ineffective enforcement actions collapsing into a hurried evacuation of a nursing home. **Recommendation:** State and federal regulators must have the authority to appoint a receiver to conduct a fair sale of the facility to a capable new owner.
	PA	Trauma of facility closure; **Action:** Area agencies on aging and local ombudsmen in the surrounding counties were notified that they would be receiving some residents because of a lack of enough available beds in Philadelphia. After the relocations Ombudsmen followed-up with a visit to each resident in five counties to ensure that possessions and records were accounted for and to address any concerns or problems.
	WA	One outcome of the change in oversight of boarding homes was that several homes that provided poor care have been closed down. The difficulty of such closures is that residents must move quickly, often within 72 hours, and sometimes must move out of their community. **Recommendation**: Change the statute to allow for temporary management in the boarding home setting, as allowed in the nursing home setting, which permits the state survey agency to either set up a new management or to make other plans while allowing residents time to move.
Special Needs **(related to transfer and discharge)**	**DC**	Residents of nursing and board and care homes who have behavior problems are frequently dumped in psychiatric hospitals rather than having their behavior addressed and needs met in the facility. Psychiatric hospital staff report that such residents do not need in-patient psychiatric care. Nursing home staff generally have not received the training or education necessary to address behavioral issues of residents.
	TN	Nursing home administrators and staff do not want residents (and liability for residents) who require a specific level of care and understanding, such as those with behavioral problems (dementia, head injury, independent personalities); those whose responsible party has not paid the resident's bill; those who are obese, and those who need ventilators.
Procedures	**FL**	Improper discharge procedures
	NY	The right of a nursing home resident to a full due process hearing before being involuntarily transferred or discharged from a nursing facility was litigated in Rochester, Monroe County, New York. The procedure utilized by the New York State Department of Health was found to fail to provide the resident the full due process protections afforded by federal law. **Outcome:** As a result of this court action, the Department of Health was ordered to revise their regulations, policies and procedures in accordance with applicable federal regulations, which provide for a hearing with full due process protections
	NC	Some facilities have discovered that if they do not issue the correct notice, the resident and/or family do not know how to appeal or who to contact for assistance. The facility is then able to "get rid of" residents they label 'undesirable' for whatever reason. **Action:** The ombudsman program has sponsored transfer/discharge training across the state for facility staff; local programs educate residents and families in newsletters and family educational meetings.

Admissions		
Medicaid	**GA**	Many applicants who are Medicaid-eligible have extreme difficulty gaining admission to nursing facilities, particularly in some areas of the state.
	VT	Some applicants who are Medicaid- or Medicare-eligible find it difficult to access nursing homes facilities of their choice. They may be forced to enter a facility far from their family or friends or spend long periods of time in hospitals waiting for a nursing home bed. Nursing homes in Vermont are not required to admit applicants regardless of payer source.
	WY	All facilities in Wyoming are certified to receive Medicare/Medicaid monies, however, this does not seem to inhibit or prohibit these facilities from refusing to admit certain residents that may require a higher level of care or attention than other more light care residents. Often the person that is refused services is one that is male, with behavior concerns, multiple physical problems, and is socially isolated from the community.
Medicare	**VT**	Some applicants who are Medicaid or Medicare eligible find it difficult to access nursing homes because the facilities are concerned that they will not be adequately reimbursed for their care. The state and federal government maintain that their reimbursement rates are adequate. However, it is our experience that some facilities are reluctant to accept Medicaid recipients with a low case mix score or Medicare recipients who require special transportation or expensive therapies. It is difficult to determine who is right, but the unintended result of this dispute between the industry and the state is that some applicants are denied access to facilities of their choice. They may be forced to enter a facility far from their family or friends or spend long periods of time in hospitals waiting for a nursing home bed. Although there are some provisions in state and federal law that regulate nursing home admission practices, nursing homes in Vermont are not required to admit applicants regardless of payor source.
Low Staff Limiting Admissions	**MN**	Minnesota is facing high employment rates and a severe labor shortage for direct care staff in nursing homes. This problem has become so severe that some homes have been forced to place a voluntary ban on new admissions until they could hire additional staff.
Special Needs	**CO**	There is only one facility in our state that can take really serious brain-injury cases, and few facilities that can take special behavior needs. The new reimbursement system has made nursing facilities reluctant to take residents with high care needs.
	VT	An issue of ongoing concern is that of nursing care facilities refusing to admit certain residents that may require a higher level of care or attention than other more light care residents. The facilities tend to "cherry pick," and thus leave the most vulnerable and in need resident at risk. The most common phrase used by the facility to reject a potential resident is "we cannot meet their needs." Often the person that is refused services is one that is male, behavior management concerns, multiple physical problems, and socially isolated from the community.
Access to Services		
Medicaid	**CO**	The current Medicaid reimbursement system available to nursing homes in this state (for specialized equipment), does not encourage facility staff to be pro-active in their assessment and purchase of assistive devices, especially modified manual and electric wheelchairs. The main barrier seems to be financial, both the reimbursement system and rate. Currently, nursing facilities are required to provide assistive technology through their per diem. Facility administrators state that they cannot "afford" to purchase specialized equipment for Medicaid residents. **Action:** The State Medicaid agency is looking at changing the system of reimbursement for these items and equipment so that it is done on a prior authorization basis rather than as a part of the per diem.

Young Adults	**CO**	Lack of facilities for the younger disabled population
	WY	For the most part the medical needs of younger seniors (50-65) and younger adults (21-50) individuals are being adequately addressed; however, there are ongoing concerns about these individuals' "quality of life" in nursing homes. Many of our younger residents express the need for more social activities outside of the facility, the need to have a younger roommate, more flexible visiting hours, access to a computer/Internet, etc.
Services Lacking in Community	**GA**	Occasionally personal care home residents are relocated from their residences due to neglect or abuse, regulatory actions, or a provider emergency. Responsibility for relocation falls on the county Department of Family and Children Services (DFCS), which has no resources to assist in emergency, temporary placement of residents. Because of the lack of funding, residents are sometimes relocated to situations that are undesirable or are not the most appropriate environment. Frequently, residents are forced to leave their communities due to the lack of resources.
	PA	(See discussion under "Emergency Closures".)
Lack Alternatives & Money	**GA**	An ever-increasing population of individuals need some assistance due to their disabilities but do not require or want nursing home care. The long-term care services currently available in Georgia are not sufficient -- or sufficiently affordable -- to provide for the needs of many persons who seek alternatives to nursing home care, whether those options are in one's own home or in a residential facility. This is particularly true for individuals with dementia who may need constant supervision but do not need the continuing nursing services of a nursing home.
	ME	**Action**: We lobbied successfully with other advocates to provide funding for Home-Based Care Services for approximately 800 people on waiting lists for these services.
Special Needs	**MS**	Because of the absence of state regulations governing Alzheimer's units, residents are denied a means to obtain quality care and adequate services. An ever-increasing population of residents living in nursing homes and personal care homes has been diagnosed with a cognitive disorder, or dementia. Alzheimer's disease is its most common form. Currently only (5) five nursing homes have Alzheimer's units in their facilities. **Action**: Ombudsmen at the state and local levels worked closely with other advocacy groups and agencies who shared concerns about the estimated 42,000 Mississippians affected by Alzheimer's disease. As a result of the many cooperative efforts, including working with the Alzheimer's Associations, committees, task forces, sharing and providing information, providing joint training, and uniting in common advocacy efforts related to Alzheimer's disease and other Dementia, the following two pieces of Legislation were introduced and passed during the 1998 Mississippi Legislative Session: 1)A bill authorizing the State Department of Mental Health to develop a treatment plan for Alzheimer's to include training and education of caregivers and providers; 2) A bill to increase the number of nursing home beds...by issuing certificates of needs for ...special care units designated for residents with Alzheimer's disease. Further positive developments include: The State Long-Term Care Ombudsman's appointment to the newly-formed Mississippi Alzheimer's Disease and Other Dementia Planning council; and newly-adopted (April 13, 1999) Alzheimer's/Dementia Care Unit Regulations for nursing homes. It is anticipated that by the end of 1999, the Alzheimer's/Dementia Care unit Regulation for personal care home will also be adopted. Overall, the Ombudsman Program believes this new legislation, and regulations will result in better quality care, better-trained and supervised staff, and a more appropriate environment for Alzheimer's /dementia residents.
	WA	The current system frequently leaves a resident waiting for many months for a customized wheelchair needed for full-time use. **Action:** The Medical Assistance Administration (MAA) and Aging and Adult Services jointly convened a wheelchair advisory Committee, which determined that payment for wheelchairs should be transferred to MAA thereby ending the confusion about who is responsible for wheelchair payment, MAA or facility.

General Issue: Enforcement

Related to Regulations

Assisted Living, Board & Care, Similar	**IL**	**Action:** The ombudsman program has been and will continue to be involved in the legislative language discussions to advocate for assisted living residents' rights, general oversight with enforcement and LTCOP access and services for residents.
	ME	**Action:** We participated in the development of revised regulations for assisted living facilities
	MS	Minimum standards and regulations must be developed to assure the quality and care provided to residents living in assistant living facilities and to address the issue raised from the aging in place concept in assisted living facilities. There are no moratoria for opening an assistant living facility. Therefore, many facilities statewide are putting up their shingles for business. As a result, levels of care can be compromised.
	NE	Assisted living facility regulation
	NM	**Action:** New Mexico has been a partner with Legal Counsel for the Elderly in the Kellogg Foundation-funded Board and Care Project for the past two years. The project has discovered and reported 38 unlicensed board and care homes and conducted extensive outreach efforts to make other agencies aware of the need for licensure.
	OH	Recent statutory and regulatory changes have increased the scope of services that may be provided by a residential care facility. As a result, residential care facilities may provide some skilled nursing care in addition to accommodations, supervision and personal care services. The skilled nursing care allowable on a 365-day per year basis includes the supervision of special diets, administration of medications and applications of dressings. Additional skilled nursing services may be provided on a part-time intermittent basis. Residential Care Facilities are not required to provide any or all skilled services on a regular basis. Therefore, not all residents are guaranteed the opportunity to "age in place." Skilled services may be provided by the facility or by an outside service. Are there adequate means of assuring quality of care and service? The composition of the nursing home population is likely to change over time resulting in a higher acuity case mix. Will staffing and other regulations continue to be appropriate?
	OR	**Action:** The state-level work group of assisted living facility stakeholders identified specific areas for assisted living facility rule revisions, including: fire and life safety, residents' rights, disclosure, move-out criteria, managed risk, medication administration, staffing and scope of services.
	VT	Act 160 required the state to shift resources from nursing homes to community-based long term care. As part of this shift the state has increased the capacity of residential care homes (RCH) to care for higher care residents through the Enhanced Residential Care Waiver Program (ERC). The state is considering other initiatives that would provide additional funding to RCHs to help them meet increasing care demands. Although there currently are rules regulating RCHs, these rules do not specifically address issues related to individuals with higher care needs; therefore, ERC providers do not have specific regulations that explain what is required of them.
	VA	We are concerned that some adult care residences are becoming "mini" nursing homes, unable to provide appropriate care, and unregulated with regards to adequate staff training.

Assisted Living, Board & Care, Similar (cont)	**WA**	There is no statutory definition of "Assisted Living" for privately paid services, so consumers and advocates are still not sure what it is, leaving consumers in a "buyer beware" position. During the last 1 ½ to 2 years, boarding home beds have increased from 14,000 to 18,700, a 32% increase. Yet, there is no moratorium on new boarding homes being built. This is a frightening situation as ombudsmen are noticing that several conditions occur as a result: 1) facilities cannot fill up, 2) facility owners have invested all of their capital in fancy, up-scale buildings and have very little capital reserve for operations, 3) facilities are understaffed because of the lack of operating funds due to lack of revenue from empty beds, 4) facility managers keep residents with increasing needs, higher acuity than ever planned for, in order to keep what revenue they do have from current residents; 5) Facility managers admit residents with care needs beyond their service capability. This creates the business environment for neglectful care, and many of the examples in our 1997 report on inadequate enforcement in boarding homes show the results of this macro-problem.
Lack of Regulations for nursing homes	**MI**	The most significant problem facing nursing home residents is the state's ineffective enforcement system. While inroads have been made in some ways to protect residents through the creation of a stable of consultants who can deliver directed in-services and others who can be temporary managers, residents continue to be at great risk. At the end of the reporting year, the state's Medicaid agency had no legally valid enforcement rules. Once again, the nursing home industry has, through court agency, invalidated state Medicaid rules. Advocates calls to the Medicaid agency and the Governor's office for emergency rules have gone unheeded.
Changing Regulations	**OH**	Guidance, definitions, and regulations from HCFA continually change. Ohio was one of the first states to develop an enforcement system based on the Nursing Home Reform Law (OBRA '87). The system includes all sanctions and a scope and severity matrix. Upon promulgation of federal regulations describing the enforcement system, Ohio's implementation was found to not meet the requirements. Efforts have been on-going to redraft a system that meets the federal requirements.
Survey-Related		
Fragmented Responsibi-lities	**GA**	Due to limited funding, annual inspections of Georgia's personal care homes are handled by county health departments, while complaint investigation and enforcement are handled by the Office of Regulatory Services (ORS). While this system has seen consistent improvement over the past few years, Georgia still has a fragmented system for monitoring personal care homes, which will be further fragmented if current proposals are adapted to remove personal care homes contracted with the Division of Mental Health/Mental Retardation/ Substance Abuse (MH/MR/SA) from the jurisdiction of any licensing agency. Under this proposal, the only enforcement in these homes would come from the purchaser of services, MH/MR/SA. The residents who receive services through MH/MR/SA deserve the same protections as residents of other personal care homes.
	MD	In 1996, the state consolidated several housing programs for the elderly under one assisted living program. The roles and responsibilities of each entity participating in the new system have not been clearly defined
	NM	**Action to resolve:** The New Mexico LTC Ombudsman Program has shifted philosophy to take a more active role in joint investigations with Adult Protective Services (APS) and Licensing and Certification (L&C). The program's position has been to refer cases pertaining to these agencies and await their findings. The increased role is being accomplished in the following ways: Training volunteer ombudsmen about what it takes for APS to substantiate a case; training volunteer ombudsman about what it takes for L&C to cite a facility; encouraging volunteer ombudsmen to have contact with the local staff of APS and L&C, coordinators and volunteers working jointly on investigations. Ombudsman have not limited their role to residents' rights issues, but are asking questions and helping research issues of concern to the other agencies

Fragmented Responsibi-lities (cont)	**VA**	**Recommendations:** During FY 1998, the Office of the State Long-Term Care Ombudsman recommended to the Virginia General Assembly that serious consideration be given to the benefits of consolidating licensing functions for both nursing facilities and adult care residences into a single agency. To the extent that a single agency would be more efficient and responsive to consumers, this option presented an opportunity to ensure quality health care services for each resident in the most appropriate setting. Concurrently, the Ombudsman Program recommended enhancing the regulations for ACRs providing intensive assisted living, and making it easier for the licensing entity to impose intermediate sanctions as a way to encourage provider compliance with minimum quality care requirements.
Role of Regulators (help vs. oversight)	**CO**	Ombudsman feel frustrated that problems they see repeatedly in nursing facilities are not cited during surveys or complaint investigations. Ombudsmen have been told by surveyors that if the surveyor does not see it, it can not be cited. Surveyors feel that some ombudsman do not provide adequate documentation of problems. **Action to resolve:** A survey was sent to all ombudsmen and surveyors asking for information on what tee problems were as well as what is working well. This information was used for a joint training of surveyors and ombudsmen to work out issues. Surveyors were expressly told that they do not have to see it to cite it. There was a discussion about how to document for specific deficiencies. Regular quarterly joint meetings of surveyors and ombudsmen have been scheduled at which ombudsmen can ask specific questions about surveys or complaint investigations to find out why certain things were not cited.
	DC	There has been no major improvement in the care received by residents. The licensing agency is not using the tools provided to it to ensure quality care. The pervasive attitude of the licensing agency is that the nursing facility needs help in order to improve, and that it is licensing's job to provide that help. There must be swift and automatic enforcement action.
	OH	Basic philosophical issues are at the crux of identifying a system that will meet all interests. The interests range from the design of a punitive system which enables residents and families to see a "real" outcome to a system designed to identify and remove "bad apples" from operation.
	VA	A consolidated licensing agency could also be charged with providing consultation to nursing homes and adult care residences to assist them with maintaining compliance with regulations, as opposed to acting simply as a punitive authority.
Measure Outcome vs Cause	**CO**	Within the Health Facilities Division there is an inability to cite deficiencies related to staffing which require that "there be sufficient staff to provide needed care to residents that enable them to reach their highest practicable physical, mental, and psycho-social well-being." **Action:** A survey was sent to all Ombudsman and surveyors asking for information on what the problems were as well as what is working well. This information was used for a joint training of surveyors and ombudsman to work out issues. Surveyors were expressly told that they do not have to see it to cite it. There was a discussion about how to document for specific deficiencies. Regular quarterly joint meetings of surveyors and ombudsman have been scheduled at which ombudsman can ask specific questions about surveys or complaint investigations to find out why certain things were not cited.
	IN	Indiana rule requires staffing in a nursing home to be "adequate to meet the needs" of residents. This criteria is difficult to measure. Facilities are usually cited by the state regulatory agency for the result of under staffing not for the root cause of the problem.
	OH	Complaints specific to staffing levels are often investigated in terms of the negative outcome on residents in order to seek resolution and to better ensure the survey agency will address the care issues. This tact is taken for two reasons. First, federal regulations do not specify staffing ratios and second, state regulation regarding staffing ratios is seldom or reluctantly cited by the survey agency. Federal certification surveys are designed to measure outcomes rather than processes. Therefore, surveyors may act upon identification of a negative outcome only. A staffing ratio is a process standard and therefore is not part of the federal regulations or survey.

Insufficient Survey Staff	**GA**	Due to limited funding, annual inspections of Georgia's personal care homes are handled by county health departments, while complaint investigation and enforcement are handled by the Office of Regulatory Services (ORS). While this system has seen consistent improvement over the past few years, Georgia still has a fragmented system for monitoring personal care homes.
	OH	Also noted as a barrier by the survey agency is the reduced survey staff and their ability to be responsive to survey and enforcement follow-up requirements. With additional funds from HCFA and instruction to hire surveyors it is anticipated these concerns may be alleviated if the state budget matches the funds as required. **Action:** The State Long-Term Care Ombudsman presented testimony to the Senate Budget Committee supporting adequate state funding for the Ohio Department of Health to meet the required federal match for surveyors.
	VA	Federal law requires surveys by the regulatory agency to be unannounced. However, a common complaint ombudsmen hear from families is that nursing homes know when the health department is coming; bringing on additional staff for a brief period of time to present a false picture of routine staffing and care. In deed, it is not difficult to determine this with appropriate accuracy when the annual visit will be done. The ombudsman program believes that one way to break the cycle of predictability is to employ more surveyors. Virginia has decreased licensure inspections from annually to every two years in order to devote more time to the federal survey process and conduct timely revisits where necessary. Unfortunately, this has not seemed to work. The ombudsman program recommends additional surveyors in order to increase the randomness of surveys and to conduct surveys on weekends and evenings.
Ineffective Sanctions	**MI**	Two facilities were closed during the reporting period, dislocating almost 200 residents. The closing of Venoy Nursing Home, a home with a long history of problems, could have been avoided by prompt, effective sanctions years and months ago. Residents' interests are not served by months and years of weak, ineffective enforcement actions collapsing into a hurried evacuation of a nursing home. State and federal regulators must have the authority to appoint a receiver to conduct a fair sale of the facility to a capable new owner.
Survey Predictable	**VA**	Federal law requires surveys by the regulatory agency to be unannounced. However, a common complaint ombudsmen hear from families is that nursing homes know when the health department is coming and bringing on additional staff for a brief period of time to present a false picture of routine staffing and care. Indeed, it is not difficult to determine this with appropriate accuracy when the annual visit will be done. Virginia has decreased licensure inspections from annually to every two years in order to devote more time to the federal survey process and conduct timely revisits where necessary. Unfortunately, this has not seemed to work. **Recommendation**: Hire additional surveyors in order to increase the randomness of surveys and to conduct surveys on weekends and evenings.
Fraud: Medicaid and Medicare		
	CA	California's Office of State Long-Term Care Ombudsman (OSLTCO) believed that it would take more than training and information-sharing to address the Fraud Waste and Abuse of Medicare/Medi-Cal funds. California's OSLTCO did not have a way of collecting and analyzing complaints of fraud, waste, and abuse of Medicare/ Medi-Cal funds in relation to all other complaints in the existing automated National Ombudsman Reporting System. **Action**: OmView, a model automated reporting system that overlays the National Ombudsman Reporting System (NORS)/OmTrak automated software was developed to provide reports to the Administration on Aging and to the Health Care Financing Administration on the status of fraud, waste, and abuse of Medicare/Medi-Cal Funds. This report allows the complaint tracking of these cases throughout California's LTC Ombudsman network and provides the basis for systems advocacy with other state agencies and the California legislature.
	FL	Fraud and abuse (Medicaid, Medicare)

Fraud: Medicaid and Medicare (cont)	**GA**	Some health care providers are defrauding Medicaid, Medicare and private insurance companies by filing false and fraudulent claims. Services are being billed that have not been provided or are not necessary. These practices not only misuse taxpayers dollars, but also rob older adults and others of needed resources for health care. **Action**: the ombudsman program provides training to educate the aging network, caregivers, and beneficiaries about the fraud and abuse being committed by health care providers. The education is aimed at prevention as well as identifying fraud.
	PA	**Action:** The Administration on Aging and the Pennsylvania Department of Aging have focused on training and assisting aging network staff and volunteers in how to detect and where to report suspected fraud and abuse scams, and educating consumers about their role in protecting their health care benefit dollars. During this first year of the project, a training course/manual was developed along with a standardized system for reporting questionable Medicare and Medicaid billing and practices. Two two-day trainings were conducted for ten area agencies on aging staff and volunteers in southwest Pennsylvania with 117 in attendance. Presenters included representatives from Medicare carriers, intermediaries, US Attorney's Office and the Office of the PA Attorney General.
General Issue: Staffing		
Job Related		
Insufficient Staff	**CO**	Facilities are unable to recruit enough direct care staff. Nursing home residents and family members are reporting a variety of complaints resulting from inadequate staffing levels. Within the health facilities division there is an inability to cite deficiencies related to staffing which require that "there be sufficient staff to provide needed care to residents that enable them to reach their highest practicable physical, mental, and psycho-social well-being". Facilities need to understand that their best way to ensure quality care and attract consumers is to value their certified nurses aides (CNA's). They need to increase the CNA to resident ratio so individualized care can really be given. Many rural nursing homes have adequate room for activities, dining and leisure time. Often residents do not receive adequate care for residents because of insufficient staff to meet their needs. The staffing problem is exacerbated in rural regions due to the small work force and lower wages.
	DC	The Ombudsman has received and substantiated numerous complaints that are caused by the shortage of staff in nursing facilities. These complaints have to do with bedsores, dehydration, malnutrition, falls, sepsis, general neglect and poor care. They are a result of too few workers attending to resident's needs. Many nursing facility providers employ less than adequate number of staff in order to save money on personnel costs. **Recommendation:** Facilities should be required to meet staffing ratios. These ratios would make it possible for the facility to meet the residents' needs. There also should be monitoring of the facility at night and on weekends and holidays when staffing shortages are at their most acute.
	FL	Inadequate staff ratios; **Recommendation:** The state's licensing regulations state that residents in need of skilled care receive only 2.6 hours of nursing care in a 24 hour period and that residents in need of immediate care receive only 2.35 hours of care. We are hopeful that the issue of increased hours of staffing will be addressed legislatively in the 1999 legislative session.
	GA	In order for residents of nursing homes to receive good quality care, the facility in which they live must provide sufficient numbers of well-trained, well-supervised staff. When staffing is inadequate, residents may develop serious and avoidable medical problems, including malnutrition, dehydration, and pressure sores.

Insufficient Staff (cont)	**IN**	Inadequate staffing in many of Indiana's nursing homes results in a significantly lessened quality of care and quality of life. Results include slow response time to requests for assistance, incontinence, falls, malnutrition, dehydration, pressure sores, and decline in ability to perform routine activities of daily living. Indiana rule requires staffing in a nursing home to be "adequate to meet the needs" of residents. This criteria is difficult to measure. Facilities are usually cited by the state regulatory agency for the result of under staffing not for the root cause of the problem. **Action:** The state ombudsman advocates and the state regulatory agency have met together to discuss legislation that has been introduced which would establish a minimum staffing law requiring a ratio of direct care staff to resident minimum staffing. Drafting of the law is in progress.
	KY	Shortage of staff; **Recommendation:** Form coalition to draft legislation for the establishment of staff-to-resident ratios.
	LA	Staffing in nursing homes continues to be an area of concern. In FY 1998, we received 40 complaints of under staffing.
	ME	**Action:** We participated in the Minimum Staffing Task Force.
	MD	Problem cases received by the ombudsman program include quality of staff, staffing levels, supervision of residents, appropriate care planning, resident care outcomes, accidents, and personal hygiene. Training requirements for nursing assistants are inadequate and need further review.
	MA	Staffing issues in general; sufficient numbers of appropriately trained staff and associated quality of life and care issues; nutrition issues including failure to assure adequate staff to feed residents; quality and quantity of food.
	MN	The three priority issues for the ombudsman program this past year were: education to promote restraint reduction, the shortage of direct care staff in facilities, and promoting culture change in nursing homes. Minnesota is facing high employment rates and a severe labor shortage for direct care staff in nursing homes. This problem has become so severe that some homes have been forced to place a voluntary ban on new admissions until they could hire additional staff. The labor shortage has complicated ombudsman efforts to increase the hours of direct care staff that are required. Providers and legislators are reluctant to raise staffing requirements as long as this labor shortage continues. Attention has shifted to staff compensation issues as a means to address the labor shortage.
	MS	Staff shortage continues to be problematic in Mississippi's nursing homes. In order for residents to receive good quality care they need and deserve, nursing homes must provide adequate numbers of well-trained, well-supervised staff. When staffing is inadequate, residents may develop serious medical problems, including pressure sores, malnutrition, decreased medication intake, and dehydration. Also, with the personnel hours system, it is difficult for families entering a nursing home to sense whether sufficient staff is present because there is no mechanism to distribute the hours throughout the day. The result is that a nursing home can compact all of those hours during the morning or evening shifts, neglecting the needs of the residents during the night shift. Prior to new legislation, only five(5) nursing homes had special units properly designed to serve the special needs of residents with Alzheimer's disease. Therefore, the Long-Term Care Ombudsman Program received many complaints from resident family members, friend, facility staff and concerned individuals in the community about the care these residents received. **Action:** Neglect and poor care through new legislation and regulations for Alzheimer's residents. Overall, the ombudsman program believes this new legislation and regulations will result in better quality care, better-trained and supervised staff, and a more appropriate environment for Alzheimer's /dementia residents.
	MO	Missouri continues to debate the issue of adequate staffing. The licensure unit removed the staffing ratio from state regulations, leaving wording that residents' needs must be met.

Insufficient Staff (cont)	**OH**	Federal certification surveys are designed to measure outcomes rather than processes. Therefore surveyors may act upon identification of a negative outcome only. A staffing ratio is a process standard and therefore is not part of the federal regulations or survey. Documented inadequacy of resident nutrition and hydration (Kayser-Jones, J. 1997) has identified staffing levels as a causal factor. A national debate regarding staffing levels has ensued with some interested parties encouraging increased staffing levels during meal times, possibly using individuals who are not certified nurse aides. This proposal raises concerns about adequate numbers of staff to meet all care needs of residents. **Action:** Care group complaint data will be reviewed and evaluated to identify support for increased staffing ratios. The data and analysis along with anecdotal information will be used to support advocacy efforts at the national level to require adequate staffing ratios be placed into regulation and to assure the state regulation on staff ratio meet or exceed any federal action.
	OR	Complaints about shortage of staff increased substantially over the previous reporting period. Nursing facility complaints increased 190% and board and care complaints increased by 100%. Putting aside those facilities that deliberately skimp on staff to cut costs, recruiting and retaining staff is emerging as a significant issue in Oregon's long-term care facilities. In a tight labor market, competition for workers can be fierce. For example, in some of Oregon's coastal communities, long-term care facilities are competing with outlet malls and casinos. For both providers and the stage agency that reimburses medical providers, the cost of increased staffing is a significant barrier to resolution.
	TX	FY98 saw a continuation of complaint activity related to staff shortages. As in past years, families and advocates consistently complained about inadequate staffing. Resident care issues, related principally to staffing issues, accounted for 35% of the total complaints received this year. **Action:** In spring 1998 to answer some staffing concerns, State Senator Bill Ratliff proposed a program that provides special reimbursement for staffing that would assure additional pay for nurse aides. Equitable reimbursement for care and a system that provides incentives to give good care has been an ongoing discussion among advocates.
	UT	There is a staffing crisis in the nursing homes in Utah and across the country. Many providers are unable to maintain a well trained staff of certified nursing assistants to care for the frail elderly who live in their facilities. This means that most nursing homes in Utah are operating with insufficient staff to adequately care for residents. (See discussion of barriers to resolution under “low wages/benefits” on next page.) **Action:** In January 1998, the state ombudsman appeared before the policy-making committee of the Bureau of Licensing (BOL), which writes the state rules for nursing facilities, and requested that the bureau sponsor a committee to study the advisability of instituting a staff/ratio in state nursing facility rules. The industry objected to the formation of the BOL committee. However, the committee voted unanimously to create a staff/ratio committee. A few months after this commitment the director of the Bureau reported that her staff was spread too thin with other rule-making obligations at that time and needed to delay the commencement of the staff/ratio committee until January 1999. The industry will certainly be abundantly represented on this new committee. Hence, the state ombudsman will endeavor to have appropriate advocate and consumer representation when the committee forms.
	VA	Staffing issues continue to be the single most critical problem impacting quality of care to long-term care residents. About 60% of all complaints handled by the ombudsman program in FY 1998 related directly to staffing issues. Lack of staff, inadequately trained staff, and high turnover rates all contributed to a growing concern amongst consumers and advocates that care is being negatively impacted. Statewide complaint statistics compared to FY 1997 reveal a 127% increase in allegations of abuse, neglect and exploitation; a 66% increase complaints concerning autonomy, choice and privacy; a 60% increase in resident care complaints; and a 93% increase in administrative issues relating to staffing. As the problem heightens, the ombudsman program continues to raise this systems issue with legislators, industry representatives, and public policy makers. We view this as a complex issue which will take considerable effort from all concerned parties to successfully address.
	WA	Residents continue to request that there be requirements for adequate and sufficient staff; this is also one of the major complaints received by Ombudsmen.

Staff Lack Training	**CO**	CNA's are often not trained on how to deal with and interact with residents with dementia, mental health challenges, and other special needs.
	DC	Facility staff generally have not received the training or education necessary to address behavioral issues of residents. Creative problem-solving is lacking. The medical model still persists.
	GA	In order for residents of nursing homes to receive good quality care, the facility in which they live must provide sufficient, well-trained and well-supervised staff. When staffing is inadequate, residents may develop serious and avoidable medical problems, including malnutrition, dehydration, and pressure sores.
	IN	The lack of appropriate training contributes to high turnover for nurse assistants.
	MD	Training requirements for nursing assistants are inadequate and need further review.
	MA	Staffing issues in general; sufficient numbers of appropriately-trained staff and associated quality of life and care issues; also the quality of professional therapy services is increasing of concern.
	MS	Staff shortage and inadequate staff training continues to be problematic. (See "insufficient staff" discussion on previous page.)
	NC	Lack of aide training; in NC, assisted living nursing assistants have up to six months after they are hired to receive appropriate training, yet they are asked to assume job tasks immediately. **Action:** Many local ombudsman programs have held training events specifically geared for nurses aides. They have not only included training items on specific topics such as Alzheimer's disease, but also on issues such as team-building and working within the NH system for change.
	OH	Documented inadequacy of resident nutrition and hydration (Kayser-Jones, J. 1997) has identified staffing levels as a causal factor. This raises concerns about the adequacy of the staff training.
	VA	Lack of staff, inadequately trained staff, and high turnover rates all contributed to a growing concern amongst consumers and advocates that care is being negatively impacted. (See "insufficient staff" discussion on previous pages,)
	WA	Our three-year study of enforcement practices in adult family homes and boarding homes also documented an alarming number of safety and care problems related to insufficiently trained staff in these settings. **Action:** Legislation introduced in 1998 to address these issues resulted in Senate Bill 6544 that directed three state agencies (DSHS, Dept. of Health, and Nursing Care Quality Assurance Commission) to work with long-term care providers, consumer groups, and other interested persons to review current standards and to submit specific recommendations on training standards and a training/educational system to the legislature. Recommendations must also include specialty training for care of residents with dementia, mental illnesses, and developmental disabilities, to and develop training modules that can create a career path of trainees working towards certification as a Nursing Assistant.
Low Wages/ Benefits	**CO**	CNA's do not receive a livable wage and affordable benefits. Facilities need to increase wages and benefits (such as on site daycare and health insurance).
	IN	The low pay contributes to high turnover for nurse assistants.
	MN	Minnesota is facing high employment rates and a severe labor shortage for direct care staff in nursing homes. Attention has shifted to staff compensation issues as a means to address the labor shortage.

Low Wages/ Benefits (cont)	**MS**	Long-term care facilities often fail to recruit and retain adequate staff due to low salaries, no health benefits, and higher paying employment opportunities with the development of casinos.
	NC	Lack of benefits for these employees; very low wages
	TX	(See discussion under "Insufficient Staff".)
	UT	(See discussion under "Insufficient Staff".) Among the numerous reasons for the staffing crisis are: low unemployment rates (there are abundant opportunities for employees to find work in the services industries, other than nursing homes); low pay, including lack of health and retirement benefits for aides; lack of incentives for staff regarding staff development; high potential for aides to experience disabling injuries; high acuity level of residents who require highly trained staff and more staff time per resident; high rates of turnover; and resistance from industry and HCFA to support a staff/ratio regulation.
High Staff Turnover	**CO**	Once the persons are trained, there is a high turnover rate and high rate of injuries.
	IN	Indiana has a very low unemployment rate; the job market is wide open. This combined with low pay for a heavy workload, emotionally and physically demanding tasks, lack of recognition and respect, and lack of appropriate training result in high turnover for nurse assistants.
	MS	(See discussion under "Low Wages/Benefits".) The facility does nothing to encourage employee retention and continuity.
	UT	(See discussion under "Low Wages/Benefits".)
	VA	(See discussions under "Insufficient Staff" and "Staff Lack Training".)
Difficult Work	**CO**	CNA's are expected to take care of too many residents and are always "rushed".
	IN	The heavy workload, emotionally and physically demanding tasks contribute to high turnover for nurse assistants.
	NC	Extremely hard job
	UT	(See discussion under "Low Wages/Benefits".)
Lack of Recognition	**CO**	Even though in many ways the CNA's are the keys to the quality care and resident satisfaction, this is not recognized by the system. CNA's are unrecognized for the important work they do and their knowledge of individual residents. Facilities need to use a team-approach which includes the CNA in resident care planning and hold events which recognize the contributions of CNA's.
	IN	The lack of recognition and respect contributes to high turnover for nurse assistants.
	NC	Lack of respect given within the facilities by administrative staff
No Career Advance-ment	**UT**	(See discussion under "Low Wages/Benefits".)
	WA	(See legislation introduced in 1998 under "insufficient staff" above.)

Injuries	**CO**	Once the persons are trained, there is a high turnover rate and high rate of injuries.
	UT	(See discussion under "Low Wages/Benefits".)
Staff Lack Supervision	**GA**	In order for residents of nursing homes to receive good quality care, the facility in which they live must provide sufficient, well-trained and well-supervised staff. When staffing is inadequate, residents may develop serious and avoidable medical problems, including malnutrition, dehydration, and pressure sores.
	MS	In order for residents to receive good quality care they need and deserve, nursing homes must provide adequate, well training and well-supervised staff.
Increased Patient Need Acuity	**CO**	The increased level of care needed by the average resident makes staffing a serious problem in most facilities. Facilities need to increase the CNA to resident ratio so individualized care can really be given
	UT	(See discussion under "Low Wages/Benefits".)
Labor pool issues		
	CO	The low unemployment rate and the growth of assisted living facilities have combined to make staffing a serious problem in most facilities.
	IN	Indiana has a very low unemployment rate; the job market is wide open. This combined with low pay for a heavy workload, emotionally and physically demanding tasks, lack of recognition and respect, and lack of appropriate training result in high turnover for nurse assistants.
	MN	Minnesota is facing high employment rates and a severe labor shortage for direct care staff in nursing homes. Providers and legislators are reluctant to raise staffing requirements as long as this labor shortage continues.
	MS	Long-term care facilities often fail to recruit and retain adequate staff due to low salaries, no health benefits, and higher paying employment opportunities with the development of casinos.
	NC	Recruitment and retention of LTC nursing assistants; lack of individuals qualified for the positions as well as a low unemployment rate
	OR	In some of Oregon's coastal communities, long-term care facilities are competing with outlet malls and casinos.
	UT	(See discussion under "Low Wages/Benefits".)
Allocation of Reimbursement Funds for Staffing		
	CO	Facility reimbursement changes make staffing a serious problem in most facilities. Within the corporations there is a lack of will and commitment to increase budgets to address these concerns.
	DC	Many nursing facility providers employ less than adequate number of staff in order to save money on personnel costs.
	IN	Cuts in facility budgets for staffing by corporate offices

Allocation of Funds (cont)	**OH**	Increased staffing is not automatically reimbursed through Ohio's Medicaid reimbursement program. Medicaid pays for approximately 65% of all nursing home care in the state. Therefore, increased staffing would have an effect on the state budget and the time frame in which providers would receive the reimbursement for the additional staff.
	OR	For both providers and the stage agency that reimburses medical providers, the cost of increased staffing is a significant barrier to resolution.
Resistance to Staffing Ratios		
	CO	Facilities need to understand that their best way to ensure quality care and attract consumers is to value their CNA's. They need to increase the CNA to resident ratio so individualized care can really be given.
	IN	Opposition by the nursing home industry to establishing minimum staffing standards
	MN	Providers and legislators are reluctant to raise staffing requirements as long as the labor shortage continues.
	UT	(See discussion under "Low Wages/Benefits".)
	WA	Residents continue to request that there be requirements for adequate and sufficient staff, it is also one of the major complaints received by Ombudsmen. However, the department has refused to draft necessary regulations that would respond to residents' requests and complaints.
General Issue: Patient Care (also see Staffing)		
Malnutrition and Dehydration		
	DC	The Ombudsman has received and substantiated numerous complaints that are caused by the shortage of staff in nursing facilities. These complaints have to do with dehydration and malnutrition. They are a result of too few workers attending to resident's needs.
	GA	Malnutrition and dehydration are persistent problems among nursing home residents, putting them at risk for infection, weight loss, skin breakdown, impaired immunity, and sometimes even death. In order for residents of nursing homes to receive good quality care, the facility in which they live must provide sufficient, well-trained and well-supervised staff.
	IN	Inadequate staffing in many of Indiana's nursing homes results in a significantly lessened quality of care and quality of life. Results include malnutrition, dehydration
	KY	Nutrition issues; **Action**: Began a public information program
	MA	Nutrition issues, including failure to assure adequate staff to feed residents, quality and quantity of food.
	OH	Documented inadequacy of resident nutrition and hydration; (Kayser-Jones, J. 1997) has identified staffing levels as a causal factor. A national debate regarding staffing levels has ensued with some interested parties encouraging increased staffing levels during meal times, possibly using individuals who are not certified nurse aides.

Quality		
	CO	Residents and family members from nursing homes are reporting a variety of complaints resulting from inadequate staffing levels including: missed baths, long call light responses, medication errors and lack of restorative therapy. In personal care boarding homes, inadequate staffing levels result in less care, attention and activities for the residents.
	DC	The Ombudsman has received and substantiated numerous complaints that are caused by the shortage of staff in nursing facilities. These complaints have to do with sepsis, general neglect and poor care. They are a result of too few workers attending to resident's needs.
	IN	Inadequate staffing in many of Indiana's nursing homes results in a significantly lessened quality of care and quality of life. Results include decline in ability to perform routine activities of daily living.
	MD	Problem cases received by the Long Term Care Ombudsman Program in the area of quality of care include quality of staff, staffing levels, supervision of residents, appropriate care planning, resident care outcomes, accidents, and personal hygiene.
	MA	Insufficient numbers of appropriately trained staff and associated quality of life and care issues.
	MS	Because of the absence of state regulations governing Alzheimer's units, residents are denied a means to obtain quality care and adequate services.
	NJ	Significant resident care complaints (33% of the total complaints received) continue to put the vulnerable elderly population at risk for less than acceptable standards of care.
	VA	Statewide complaint statistics compared to FY 1997 reveal 60% increase in resident care complaints.
Sores		
	DC	The ombudsman has received and substantiated numerous bedsore complaints. These complaints have to do with bedsores. They are a result of too few workers attending to resident's needs.
	GA	Bedsores are a continuing problem.
	IN	Inadequate staffing in many of Indiana's nursing homes results in a significantly lessened quality of care and quality of life. Results include pressure sores.
Response Time		
	CO	Residents and family members from nursing homes are reporting long call light responses In personal care boarding homes, inadequate staffing levels result in less care, attention and activities for the residents.
	IN	Inadequate staffing in many of Indiana's nursing homes results in a significantly lessened quality of care and quality of life. Results include slow response time to requests for assistance
	LA	We received an additional 43 complaints regarding availability and responsiveness of staff.

Medications		
	CO	Residents and family members from nursing homes are reporting a variety of complaints resulting from inadequate staffing levels including medication errors.
	FL	Improper medication administration
Accidents		
	DC	The Ombudsman has received and substantiated numerous complaints that are caused by the shortage of staff in nursing facilities. These complaints have to do with falls. They are a result of too few workers attending to resident's needs.
	MD	Problem cases received by the Long Term Care Ombudsman Program include accidents.
Hygiene		
	MD	Problem cases received by the Long Term Care Ombudsman Program include personal hygiene.
Care Planning		
	MD	Problem cases received by the Long Term Care Ombudsman Program include quality of appropriate care planning, resident care outcomes.
Staff/Abuse Registry		
	DE	**Action:** As a result of legislation passed in 1997, the ombudsman was assigned responsibility for an adult abuse registry. In the fall of 1997 and early part of 1998, the program was involved in the drafting of regulations, development of operating policies, hiring of staff etc. The registry became operational January 1, 1998.
	FL	Providing screening for all employees having regular uninterrupted contact with residents.
	NJ	**Action: Criminal Background Checks**: The ombudsman office reached out through our Vulnerable and Elder Rights Task Force, Legislative Work Group to the New Jersey Office of the Attorney General, Department of Health and Senior Services, and the Department of Human Services to operationalize a legislative mandate for employers to obtain criminal background checks on those persons applying to work with the elderly in long-term care institutions. The legislative bill requiring criminal background checks for certified nurse aides and home health aides passed the legislature in April of 1997. **Substantiated Abuse Registry:** The ombudsman office, in cooperation with the Department of Health and Senior Services worked on a collaborative effort to have an abuse registry accessible to employers in their search for certified nurses aides. An efficient process has been implemented whereby aides whose abusive behavior has been substantiated as a result of OOIE investigations are referred to the Division of Long-Term Care Systems Development and Quality for a hearing process and appropriate certification sanctions. Inquiries are making it difficult for aides to go from facility to facility and continue a pattern of abuse to residents. Also, because of OOIE enabling legislation, we are able to refer individuals licensed in the field of nursing and suspected of abuse to the Board of Nursing for possible sanction.

General Issue: Residents Rights		
General Rights		
	DE	**Action:** The program responds to requests for information and provides in-service training for staff, residents and families. Additionally, the Volunteers in the Ombudsman program are often involved in addressing these issues during their visits.
	FL	Resident rights abuses; **Recommendations**: toll-free number for resident access, maintaining vigorous civil enforcement provisions in the law, comprehensive training for ombudsmen and staff, providing screening for all employees having regular uninterrupted contact with residents.
Culture Change	**DC**	Facility staff generally have not received the training or education necessary to address behavioral issues of residents. Creative problem-solving is lacking. The medical model still persists.
	MN	The three priority issues for the ombudsman program this past year were: education to promote restraint reduction, the shortage of direct care staff in facilities, and promoting culture change in nursing homes. The ombudsman staff have been promoting culture change in nursing homes through our educational programs. We have arranged for training on the Eden Alternative and are promoting individualized care in all of our consumer information materials and presentations.
	WA	For many years two specific principles have been well demonstrated and widely accepted as contributing to the well-being and quality of life for individuals in residential settings: The smaller the unit the better, and integration of residents is more beneficial than the segregation of residents by type. **Action:** A handful of facilities in Washington State are experimenting with these principles by developing units (sometimes called "neighborhoods") of 20-25 beds and mixing residents with differing needs. To support these efforts, the LTCOP applied for and received a grant of $15,000 to hold a "Best Practices" conference primarily aimed at nursing home providers.
Education on Rights	**MT**	FY 99 priority will be the public education and outreach about personal care homes in Montana. **Action:** We have developed a Consumers Guide of Personal Care Homes in Montana that explains resident rights and what to look for when considering a personal care home. The state ombudsman and local certified ombudsmen will provide training sessions at senior centers, health fairs, and various events across the state beginning Summer 1999.
	VA	**Action**: In FY 1998, a 3rd edition of the residents' rights poster for nursing facilities was produced through a cooperative effort between the ombudsman program and the Virginia Health Care Association. This poster was distributed to every nursing facility in Virginia. It presents information about residents' rights, how to resolve a problem, and agencies to contact, including the ombudsman program, if the problem remains unresolved. The provider response to this poster has been very positive
Representation		
Guardian Issues	**MO**	We continue to have difficulties with residents who have guardians that aren't attentive to their ward's wants and needs.

Guardian Issues (cont)	**OR**	In the previous reporting period, the Office of the Long-Term Care Ombudsman identified numerous problems arising from guardians appointed for long-term care facility residents. In many of those cases, the guardians were making decisions that either exceeded the authority vested in them by the court, or were overly restrictive on the resident and in direct conflict with the resident's wishes, or both. The report that resulted from this survey found, in part, that "(T)he process for establishing and monitoring guardianship in Oregon is essentially a paper process, lacking meaningful review of pleadings and allegations, meaningful notice to respondents, and limited protection of the rights of individuals subject to guardianship petition." **Action:** The Guardianship Work Group developed two separate pieces of legislation to address the problems identified by the group and the survey. The first bill focused on expanding due process in guardianship proceedings, changed notice provisions and expanded court oversight of guardianships. The second bill is directed at professional fiduciaries or "guardians for hire" and contains a section on conflicts of interest and a section requiring certain disclosures by professional fiduciaries in the petition and thereafter. Both of these bills will be introduced in the legislative session beginning in January 1999.
	RI	Need for guardians for residents who become incompetent.
	UT	Many Utahn's living in nursing homes have diminished mental capacity so significant that they are unable to make informed decisions which effect their health and welfare. Several hundreds of these residents do not have family or other interested persons who can help direct their care. There is no one to monitor care or make decisions regarding minor or major treatment. There will be difficulties getting funding necessary to create the Office of the Public Guardian. Legislators may be resistant to allocating funds to support another governmental entity. At least one area agency on aging director objects to the concept of a state run Office of the Public Guardian. Counties may object to providing legal representation for the proposed wards.
Legal	**KY**	Lack of representation; **Action:** Work to secure legal aid for residents
Do Not Resuscitate (DNR) Orders/ End of Life Decision-Making	**NJ**	**Action:** The ombudsman program's goal is to continue to facilitate and encourage the development and implementation of regional long-term care ethics committees. These regional long-term care ethics committees facilitate dispute resolution and education services to facilities, residents and families in end-of-life decision making and other ethical dilemmas that arise in long-term care. At the end of federal fiscal year 1998 there were ten (10) fully functioning Regional Long-Term Care Ethics Committees in New Jersey. The program developed a New Jersey Long Term Care Ethics Consortium to support the regional long-term ethics committees which have been in operation and those which are in the beginning stages of development. Within the New Jersey Long-Term Care Ethics Consortium is the Ethics Advisory Sub-Committee, which continues to provide educational support to the regional long-term care ethics committees and also to provide advisory consultation to nursing facilities which have begun to develop regional long term care ethics committees. Funding was obtained through private grants for the creation, organization and education of a statewide network of regional long-term care ethics committees. The purpose of this program is to train and develop regional ethics committees in the skills needed to confront the complex ethical problems inherent in long-term care. The project's goals are to (1) develop an ethics educational curriculum; (2)recruit New Jersey's 354 nursing homes and 50 assisted living residences (54,175 beds); (3) strengthen existing and establish new regional long-term care ethics committees (for a total of 12 statewide); (4) develop and strengthen policy and consultation functions of 12 regional long-term care ethics committees; (5) conduct long-term care epidemiology research; and (6) provide continuity in long-term care ethics education in all participating facilities. Additionally, the Ombudsman is seeking funds to train palliative care teams in nursing facilities.
	OH	In 1990 the Ohio legislature passed legislation creating the opportunity for adults to create living wills and durable powers of attorney for health care. These provisions support continued autonomy in health care decision-making. However, Cardiopulmonary Resuscitation (CPR) continued to pose a problem for many nursing homes and emergency transport personnel. Legislation to create a protocol for Do Not Resuscitate (DNR) orders was introduced and passed by the state legislature. The Ohio Department of Health has promulgated rules to implement the statute's provisions, allowing for the existence of DNR orders, which allow patients and physicians to address this important part of health care decision-making.

Neglect/Abuse		
Abuse	**CO**	Most significantly, we have seen an increase in abuse in long-term care facilities.
	DE	**Action:** First, as a result of legislation passed in 1997, the Ombudsman was assigned responsibility for an adult abuse registry. In the fall of 1997 and early part of 1998, the program was involved in the drafting of regulations, development of operating policies, hiring of staff etc. The registry became operational January 1, 1998.
	MD	Abuse of long term care residents continues to be a major issue with the program. In addition to the abuse of residents in nursing facilities, the program has been more extensively involved with community-based elder abuse issues as a result of the efforts of the Elder Abuse Prevention Program. While staff to resident physical abuse is more prevalent in nursing facilities, self-neglect and financial exploitation are more problematic in community-based settings. There remain statutory, regulatory, and procedural barriers to addressing the problem of resident/elder abuse, including: a) multiple statutory definitions of abuse, b) multiple agency responsibility for reporting or investigating cases of alleged abuse, and c) conflict between federal and state reporting requirements. There is limited public awareness and education regarding this subject. Resources to assist victims of abuse are limited as well. **Recommendations:** 1) continue the work of the Elder/Vulnerable Adult Abuse Prevention Committee (EVAAPC) to: a) expand the membership of the Committee and identify and network with more agencies, organizations, etc. on this issue, b) implement the Train- the-Trainer Program in October, 1998 to train at least one hundred professionals on elder and vulnerable adult abuse issues, targeting ombudsmen, law enforcement officials, adult protective services workers, and geriatric evaluation staff and encourage certified trainers to participate in the statewide speakers bureau, c) develop additional educational material and increase outreach efforts to heighten public awareness, and d) continue efforts to make the 1-800-91PREVENT elder abuse hotline operational 24 hours/day and to provide the necessary support to staff the hotline. 2) continue efforts to work with stakeholders and members of the legislature on bills involving power of attorney abuse, national criminal history records checks, and civil money penalties for victims of abuse. 3) continue to work to address the elder abuse reporting system and to ensure coordination with and cooperation between all entities responsible.
	NJ	Violation of resident rights in the area of physical abuse, sexual abuse, and verbal abuse continues to remain a significant problem in New Jersey. Five-hundred fourteen (514) cases of physical abuse (48%) in this category were received. Thirty-three cases of sexual abuse (3%) and 335 cases of verbal/mental abuse (31%) towards residents were reported in the fiscal year. The elderly population in nursing facilities is at risk for increased vulnerability to abuse, neglect and exploitation due to higher acuities of care and an increasing aging population. Additionally, resident-to-resident abuse that resulted in injury that required medical intervention contributed a total of 12% of the 1,066 cases reported in this category of residents' rights.
	VA	Statewide complaint statistics compared to FY 1997 reveal a 127% increase in allegations of abuse, neglect and exploitation.
Restraints	**MN**	The three priority issues for the ombudsman program this past year were; education to promote restraint reduction, the shortage of direct care staff in facilities, and promoting culture change in nursing homes. **Action:** Restraint reduction activities were conducted in partnership with the state department of health. The ombudsman arranged to hold of series of educational sessions around the state for both staff and consumers about restraint reduction. The department of health provided a nurse trainer to conduct the sessions
	RI	Education for family members/residents regarding issues of state law pertaining to restraints
	WA	Problems in the provision of services for residents who have dementia continue. **Action**: The Division of Mental Health, DSHS, has provided training for several nursing home staffs and some Adult Family Home providers in "Gentle Care" techniques. In addition, Aging & Adult Services Administration has provided training in dementia care around restraint reduction. Both these efforts have primarily been directed to nursing home staff, while little of these necessary tools have been provided to alternative residential providers.

Drug and Alcohol Misuse	**MD**	Drug and alcohol abuse by long-term care residents continues to be an area of concern for the ombudsman program. While this problem is not restricted to younger residents in facilities, this population accounts for a majority of complaints in this area. Manifestations of this concern include the user's noncompliance with facility policies, abusive behavior towards other residents and staff, criminal activity and behavior requiring the intervention of law enforcement officials. Law enforcement officials lack training regarding appropriate responses to such incidents/activity. There are difficulties with the development of appropriate responses to these issue by facility staff.
Financial Issues		
Personal Needs Allowance	**OH**	Nursing Home Residents whose care is reimbursed through the Medicaid system contribute all monthly income less an amount known as the personal needs allowance. The personal needs allowance must be used to pay for any items of clothing, stationary, stamps, cigarettes, dry cleaning, newspapers, telephone, etc. Based upon the request of numerous residents and upon the example of several other states, regional ombudsmen advocated an increase of the personal needs allowance from $30 to $40 per month. Legislation was passed ensuring the majority of nursing home residents $40 of their monthly income to meet their personal needs.
	RI	Financial issues/personal funds/non-payment.
Lost Property, Theft, Exploitation	**FL**	Lost, misplaced or stolen property.
	MD	Financial exploitation is more problematic in community-based settings.
	OH	Concerned about the increasing visibility of financial crimes committed against older adults, the state legislature passed legislation increasing penalties for those persons convicted of financial crimes against the elderly. The Ohio Department of Aging and the Office of the State Long-Term Care Ombudsman supported this legislation.
Due Process (see Access: Discharges/ Transfers)		
	NY	(See discussion of issue under Access section.) The procedure utilized by the New York State Department of Health failed to provide the resident to the full due process protections afforded by federal law. **Action:** As a result of this court action the Department of Health was ordered to revise their regulations, policies and procedures in accordance with applicable federal regulations {42CFR part 431 and Subpart E of part 483} which provides for a hearing with full due process protections.
	NC	Some facilities have figured out that if they do not issue the correct notice, the resident and/or family do not know how to appeal or who to contact for assistance. The facility is then able to "get rid of" residents who they label as 'undesirable' for whatever reason. **Action:** The ombudsman program has sponsored transfer/discharge training across the state for facility staff. This training has included presenters from the state agencies involved with these issues and covers all aspects of the transfer/discharge process. Many local program have made efforts to educate residents and families on residents' rights in this process including feature articles on transfer and discharge in their newsletters and education sessions for family and resident councils.

General Issue: Ombudsman Program		
Program Support		
Financial	**AL**	Increase funding for program.
	CO	The state ombudsman program is now responsible for paid and volunteer ombudsman. This represents a significant increase, yet no corresponding increase in funding has been made available to the state program. The lack of available funding is a barrier to adequate ombudsman presence, particularly in light of increases in volume and complexity of complaints, numbers of personal care boarding homes, and resident health problems. **Action:** To address the need for more coverage, we increased recruitment and use of the volunteer ombudsman. There is also a movement by aging advocates (including ombudsmen) to increase the percentage of state matching funds provided for Older Americans Act services. Our state has used only the minimum 5% match since 1973.
	IL	**Action:** With tremendous help from local grass roots organizations, which include Illinois AARP, Illinois Citizens for Better Care (ICBC), Elder Rights Coalition and the Illinois Association of Long-Term Care Ombudsmen (IALTCO), the ombudsman program received its first state funding. This legislation was passed after a tremendous educational effort of both House and Senate members by all involved in the effort. The program received $400,000 and is planning a statewide general educational effort.
	MD	In 1996, the state consolidated several housing programs for the elderly under one Assisted Living Program. As a result of the consolidation, there is expected to be a significant increase in the scope and responsibility of the ombudsman program. The current funding level for the ombudsman program is not sufficient to respond effectively to the increased number of facilities under the expanded program. Limited funding continues to impede the program from fully and effectively carrying out many of its mandates.
	VA	The Virginia Association of Area Agencies on Aging, individual area agencies on aging and other organizations and individuals in the aging network helped support efforts to increase Ombudsman funding from the Virginia General Assembly. An increase of $90,000 was achieved. This allowed for the establishment of two new local programs in areas with a significant number of nursing facility and adult care residence beds. Unfortunately, one local program in Southwest Virginia suspended operation due in part to funding concerns.
	VT	Inadequate funding continues to be a challenge. The program received a $7,161 increase in Older Americans Act (OAO) Title III funds in FY '98 and will receive an additional $14,333 in OAO Title VII funds in FY '99. This deficit is absorbed by Vermont Legal Aid, Inc. (VLA). The state has not increased its contribution to the project since 1993. The project relies on volunteers to offset the reductions in staff that have occurred over the past few years. The VOP recognizes and values the commitment and contribution of VOICE volunteers, however there is a limit to the number of volunteers that the VOP can recruit, train and support effectively.
	WA	The National Association of State Ombudsman Programs (NASOP) and the National Association of State Units on Aging (NASUA) have formed a study group/task force with the goal of cooperating on reauthorization issues and implementation issues regarding the Federal Older Americans Act. Goals to are work towards adequate funding for the Act, maintaining separate authorization and funding for Title VII of the Act and for the ombudsman program, and ensuring the independence of individual State and Regional Ombudsmen.

Insufficient Staffing	**AR**	Inadequate number of ombudsmen; **Action:** working to develop a volunteer program to increase number, visibility and access by residents.
	CA	California's ombudsman program does not have adequate resources to meet its federal and state mandates. **Action:** With the help of the Institute of Medicine (IOM) Study and the Combined Oversight and Strategic Action Task Force (COSAT), staffed by local and state ombudsmen, the program defined what an adequate LTC ombudsman program and an exemplary program should exemplify in California, based on a set of six core elements: (1) complaint management, (2) facility presence, (3) patterns of poor practice, (4) community awareness, (5) public policy, (6) effective administration. A major outcome of this effort was to define a performance indicator, a ratio of FTE to beds, that would meet residents' needs and that would provide some program accountability in order to position the ombudsman to be able to request additional resources.
	ID	One of the biggest problems in our state is access to programs. This is due to the number of staff available in both programs as well as the geographical layout of our state. (Much of our state is still considered frontier area, and staff must drive considerable distances to provide services.
	MD	In 1996, the state consolidated several housing programs for the elderly under one assisted living program. As a result of the consolidation, there is expected to be a significant increase in the scope and responsibility of the ombudsman program. The current staffing level for the Ombudsman Program is not sufficient to effectively serve these facilities. The roles and responsibilities of each entity participating in the new system have not been clearly defined.
	NJ	**Action:** The volunteer advocacy program is the result of a pilot which was developed in 1993 in four counties (Essex, Hudson, Morris and Union) of New Jersey. The volunteer advocate initiative was designed to recruit, train and place volunteer advocates in long-term care facilities throughout the state to pro-actively resolve quality of care and quality of life issues for residents 60 years of age or older who cannot resolve issues or concerns on their own behalf. Advocates receive 32 hours of intensive training through a curriculum developed by the University of Medicine & Dentistry of New Jersey and Rutgers School of Social Work. Volunteers attend training arranged by the regional volunteer coordinator who is responsible for recruiting, training and supervising those volunteers in each of the four (4) regional programs. In order for the volunteer advocates to become certified, they must attend all classes and pass a certifying examination of 70% or higher. The programs are operated under contracts with three agencies.
	WA	The ombudsman advisory board set a goal of reaching one-half the staffing standard established by the Institute of Medicine Study *Real People, Real Problems*. That is to reach a funding level for Regional LTCOPs enabling one-half Full Time Equivalent (FTE) staff person for each 2,000 long-term care beds in the region. Previous funding has enabled the LTCOP to be locally accessible in all parts of Washington State. Though local access is statewide, the program still falls short of the goal set by the Board. **Action:** Enhancements for the biennial ombudsman budget put forth by Dept of Social and Health Services and The Community Trade and Economic Development were cut from the Governor's budget. The advisory board has approved the State Ombudsman to find support to introduce a bill to provide for $500,000 for the regional programs.
Increased Volume of Complaints	**CO**	There has been a significant increase in both the volume and complexity of complaints received by the ombudsman program over the last few years.
	MD	The scope and responsibility of the ombudsman program has continued to expand. Factors which are problematic for the program include an increase in the population served and number of complaints received by the program, which places a strain on the limited resources provided to carry out program activities.

Increased Volume of Complaints (cont)	**VA**	Increased program activity: As the number of local programs has increased, so has the volume of requests and complaints. The number of requests for information/counseling in FY 1998 (13,916) increased by 40% from FY 1997. The number of issues handled via complaint counseling (empowering people to advocate on their own behalf to resolve complaints) in FY 1998 was 4,706, an increase of 15% over FY 1997. Formal complaints which were investigated and closed by the program totaled 940 complaint issues in FY 1998, a 52% increase over FY 1997. In addition, the program continued to respond to providers' requests for training and consultation. Local Ombudsmen conducted 166 presentations and in-services for facility staff, and responded to more than 840 requests for consultations on a variety of issues related to quality of care, quality of life, and residents' rights.
Political Issues	**CA**	With input from the Administration on Aging and the California aging network, the California Department of Aging attempted to reorganize the OSLTCO to directly contract with local programs, eliminating the AAAs from the contracting role.
	PR	This fiscal year, the ombudsman program was involved in promoting the preparation and consideration of legislation concerning the creation of the LTC Ombudsman at state level. This measure, which has not yet been approved, had very favorable public hearings at the House of Representatives. The plan for the restructuring of the area agencies on aging required extensive planning regarding the composition of new local programs, including areas concerning personnel, number of facilities per local program, assigning new codes to facilities and preparing files and equipment inventories in each local program. The Governor's Office for Elderly Affairs started the implementation of the plan for the reorganization of the area agencies during the last quarter of the fiscal year. This project is basically aimed at reducing the number of area agencies from seven to two. Upon being notified of this event, many of our program's paid and voluntary personnel proceeded to resign their positions, others were on vacation leave for the month of September. These events and the uncertainty produced by the changes included in the Plan, resulted in a reduction in the number of visits to long-term care facilities and in complaints' recollection and resolution. During this fiscal year, the Central Area Agency on Aging dismissed all volunteers and was reluctant in allowing the two paid ombudsman representatives to visit facilities. This action resulted in the reduction in this local program’s efficiency (only 30% of complaint resolution). The local program Metropolitana did not recruit volunteers required to visit facilities and to follow-up on outstanding complaints. This resulted on this local program's low complaint resolution efficiency (21%).
	WA	The National Association of State Ombudsman Programs (NASOP) and the National Association of State Units on Aging (NASUA) have formed a study group/task force with the goal of cooperating on reauthorization issues and implementation issues regarding the Federal Older Americans' Act. Goals to are work towards adequate funding for the Act, maintaining separate authorization and funding for Title VII of the Act and for the LTCOP, and ensuring the independence of individual State and Regional Ombudsmen.
Need Legislative Support	**AL**	More legislative involvement in ombudsman program.
	PR	(See discussion above.)
Require-ments Hard to Implement	**MD**	The scope and responsibility of the ombudsman program has continued to expand. Factors which are problematic for the program include: 1) An increase in the population served and number of complaints received by the program places a strain on the limited resources provided to carry out program activities. 2) Staff assigned duties in other programs limit their availability for Ombudsman activities. 3) Requirements for systems advocacy, volunteer development, facility monitoring, and community outreach have been difficult to implement.

Visibility/Role		
General Visibility	**AL**	Higher state & local ombudsman visibility.
	ID	One of the biggest problems in our state is access to programs. This is due to the number of staff available in both programs as well as the geographical layout of our state. (Much of our state is still considered frontier area and staff must drive considerable distances to provide services.)
	IL	The FY 1998) program issues focused on increased public awareness of the program and the services it provides. Residents, their family members, local law enforcement and the general public are not aware of the program. This may represent the fact that people do not want to admit that they or their loved ones may become debilitated to the point where they need the services which are provided in a nursing home and choose not to hear or remember anything about the program; that the name, telephone number and description of the program becomes lost in the information provided to all residents upon admission to nursing homes; and/or to the issue that 60% or more of the residents in facilities have some form of dementia and may not have the ability to recognize and remember to call the program when they want or need assistance. **Action:** The General Assembly passed legislation which increased the number of ombudsman program posters that must be posted in each facility from one to "multiple, conspicuous public places within the facility accessible to both visitors and patients and in an easily readable format, the address and phone number of the Office (of the ombudsman), in a manner prescribed by the Office." The Office became a speaker at the ongoing Illinois State Triad and Office of Attorney General trainings established to train law enforcement officers about aging, the aging network and how to make appropriate referrals to the aging network. After completion of the training, officers are known as Elderly Services Officers.
	PA	**Action:** The state ombudsman office will continue to provide standardized volunteer orientations, training resources and manuals, and certification and badges. In addition we propose the creation of a regional support network for volunteers. Recruitment, screening, processing for training, recording data, and sustaining volunteer interest all take time and special skills. The network will consist of three support staff to be resources to all 52 area agencies on aging for recruitment, training and management of volunteers for ombudsman activities. Our short-term goal is to have active volunteer ombudsman representation in every area agency on aging. The long term range plan is to have a volunteer ombudsman assigned to every long term care facility in the Commonwealth.
Coordi-nation with Licensing	**CO**	Ombudsmen feel frustrated that problems they see repeatedly in nursing facilities are not cited during surveys or complaint investigations. Ombudsmen have been told by surveyors that if the surveyor does not see it, it cannot be cited. Surveyors feel that some ombudsmen do not provide adequate documentation of problems. **Action:** A survey was sent to all Ombudsmen and surveyors asking for information on what the problems were as well as what is working well. This information was used for a joint training of surveyors and ombudsmen to work out issues. Surveyors were expressly told that they do not have to see it to cite it. There was a discussion about how to document for specific deficiencies. Regular quarterly joint meetings of surveyors and ombudsmen have been scheduled at which ombudsmen can ask specific questions about surveys or complaint investigations to find out why certain things were not cited.
	NM	The New Mexico program has shifted philosophy to take a more active role in joint investigations with Adult Protective Services (APS) and Licensing and Certification (L&C). The program's position has been to refer cases pertaining to these agencies and await their findings. **Action:** The increased role is being accomplished in the following ways: training volunteer ombudsmen about what it takes for APS to substantiate a case; training volunteer ombudsman about what it takes for L&C to cite a facility; encouraging volunteer ombudsmen to have contact with the local staff of APS and L&C, including introductions by the Ombudsman Coordinator; and coordinators and volunteers going with APS and L&C staff to work on joint investigations. Ombudsmen have not limited their role to residents' rights issues, but are also asking questions and helping research issues of concern to the other agencies

Insufficient Presence in Facilities	**CO**	In some parts of our state the ombudsman are not meeting minimum standards of visiting nursing facilities once per month and board and care homes once each quarter. Instead ombudsman are only able to respond to complaints and are unable to do the follow up they would like to do.
	PR	This fiscal year, the LTC Ombudsman Program, was involved in promoting the preparation and consideration of legislation concerning the creation of the LTC Ombudsman at state level. This measure, which has not yet been approved, had very favorable public hearings at the House of Representatives.
Info Not Accessible When Needed	**IL**	This may be due to the fact that the name, telephone number and description of the ombudsman program becomes lost in the information provided to all residents upon admission to nursing homes. **Action:** The General Assembly passed legislation which increased the number of ombudsman program posters that must be posted in each facility from one to "multiple, conspicuous public places within the facility accessible to both visitors and patients and in an easily readable format, the address and phone number of the Office, in a manner prescribed by the Office."
Role re Assisted Living	**MD**	In 1996, the state consolidated several housing programs for the elderly under one assisted living program. The roles and responsibilities of each entity participating in the new system have not been clearly defined.
Conflict of Interest/ Dual Role	**ID**	The Idaho Commission on Aging took on the responsibility of the adult protection program for Idaho in 1995. Initially protocol was established that defined the ombudsmen as primary investigators for all allegations of abuse, neglect and exploitation of residents over 60 in both nursing homes and board and care facilities. This ombudsman/adult protection partnership was formulated to make the best use of very limited manpower. After operating under this agreement for one year it became clear that the parameters for ombudsman and adult protection became too diluted and a conflict of interest could be a potential problem. Facility staff also became confused about the role of the ombudsman and began to view us as regulators rather than advocates. We continue to have ombudsmen provide "on call" services for adult protection complaints in some parts of the state and they "may" assist with adult protection investigations if they are the sole staff person available in the geographic location of the adult protection complaint. **Action:** The state AP coordinator, state ombudsman and director of the state survey agency worked to redefine roles and implemented a new Memorandum of Understanding, handing all responsibility for AP investigations to adult protection staff and the survey agency only. (Ombudsmen are mandatory reporters of abuse under Idaho statute).